

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY  
SUPPLEMENTARY PAGE

International Application No.: PCT/EP 03/10447

Re: Point I

1. The changes filed with the letter dated 10/27/2004 introduce facts which, incompatible with Article 34(2)(b) PCT, go beyond the disclosure of the International Application at the time of filing. The changes are as follows:

Claims 1 and 8 were broadened by the feature "for generating measurement data immediately."

However, the expression "immediately" is not disclosed in the Specification; it is only disclosed by analogy that the measurement-data acquisition is started without further time delay. This is not so conveyed by the expression "immediately," however. The expression "immediately" is substantially more far-reaching than mere time immediacy. For example, in the above feature, "immediately" can also be interpreted that measurement data are generated directly, and not first in a roundabout way, e.g. by calculation or derivation from other quantities.

Therefore, the expression "immediately" is vague and unclear, and leaves the reader in the dark about the meaning of the technical feature in question. As a result, the definition of the subject matter of this claim is not clear within the meaning of Article 6 PCT, as well.

In accordance with Regulation 70.2.(c) PCT, the expression "immediately" in Claims 1 and 8 is not taken

into account in the preparation of the International Preliminary Examination Report.

**Re: Point V**

2. Reference is made to the following documents:

D1: US 2001/001540 A1 (OKAMURO TAKASHI ET AL) May 24, 2001 (2001-05-24)

D2: EP-B-0 660 209 (HEIDENHAIN GMBH DR JOHANNES) June 28, 1995 (1995-06-28)

3. **Lack of Novelty (Article 33(1), (2) PCT)**

The present application does not satisfy the requirements of Article 33(1) PCT, because the subject matter of Claims 1 and 8 is not novel within the meaning of Article 33(2) PCT for the following reasons.

Document D1 discloses (see Figure 1, the references in parentheses relate to this document) a method for operating a position-measuring device (10) which has a signal-generating unit (11-15) for generating positional data and which is connected to a sequential electronics (19, 20, 31, 32) via a communication unit (microcomputer 18), data being transmitted between the signal-generating unit and the communication unit via an internal interface unit (multiplexer 16 and A/D converter 17), comprising the following steps:

- Transmission of measurement-data request instructions, which are transmitted from the sequential electronics to the position-measuring device, for generating measurement data (Fig. 2, 3 and [0054]: "sample-holding signal" is set to the value L, synonymous with a retrieval of the measurement and positional data from the "sample-holding section" 15), bypassing the internal interface unit, to

the signal-generating unit (from CPU 25 via output circuit 25 to the "sample-holding section" 15, Fig. 1-3 and [0049]-[0066])

- Transmission of the positional data, generated as a result of the measurement-data request instructions, from the signal-generating unit to the communication unit via the internal interface unit (Fig. 2 "first branching processing step" S111-S116 and [0054]-[0056]).

- 3.1 The subject matter of dependent Claims 2-4 (Fig. 1), 5, 6 (implicitly in [0054]-[0056]), 9-12 (Fig. 1), 14 (implicitly, multiplexer 16), is already disclosed in D1, as well. Accordingly, the subject matter of Claims 2-6, 9-12 and 14 is also not novel.

**4. Lack of Inventive Step (Article 33(1), (3) PCT)**

Dependent Claims 7, 13, 15-17 relate to insignificant structural or process-engineering changes in the position-measuring device which lie within the scope of the measures one skilled in the art is accustomed to take based on considerations familiar to him/her, especially as the advantages achieved therewith can easily be anticipated (see, for example, document D2). Consequently, the subject matter of Claims 7, 13, 15-17 does not seem to be based on any inventive step either.

**5. Industrial Applicability (Article 33(1), (4) PCT)**

The subject matter defined in Claims 1-17 is undoubtedly industrially applicable.

**6. Miscellaneous**

- 6.1 In Claim 1, both positional data and measurement data are mentioned. From the wording of Claim 1, it is not clear

to what extent the two data types differ. Claim 1 is therefore not clear in accordance with Article 6 PCT. According to the Specification page 4, line 29 through page 5, line 13, measurement data and positional data are to be understood as equivalent.